

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CHRISTIAN F. MCCALLION, Individually
and On Behalf of All Others Similarly
Situated,

Plaintiff,

v.

CELSIUS HOLDINGS, INC., JOHN
FIELDLY, and EDWIN NEGRON,

Defendants

Case No. 9:22-cv-80418-DMM

NOTICE OF MOTION OF MARK BUA FOR APPOINTMENT AS

LEAD PLAINTIFF AND APPROVAL OF COUNSEL

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that Mark Bua (“Bua”), by and through his counsel, will and does hereby move this Court, pursuant to Section 21D(a)(3) of the Securities Exchange Act of 1934, as amended by the Private Securities Litigation Reform Act of 1995 (“PSLRA”). 15 U.S.C. § 78u-4(a)(3), for an Order: (1) appointing Bua as Lead Plaintiff in the above-captioned action; (2) approving Bua’s selection of Glancy Prongay & Murray LLP as Lead Counsel and Desmond Law Firm, P.C. as Liaison Counsel for the class; and (3) granting such further relief as the Court may deem to be just and proper.

Bua seeks appointment as lead plaintiff and approval of his choice of counsel pursuant to the Exchange Act, the Federal Rules of Civil Procedure, and the PSLRA. This motion is based on this notice, the attached memorandum of law, the declaration of Leo W. Desmond, and the Court’s complete files and records in this action, as well as such further argument as the Court may allow at a hearing on this motion.

COMPLIANCE WITH LOCAL RULE 7.1

This Motion is filed pursuant to Section 21D of the Exchange Act, as amended by the PSLRA. This section provides that within 60 days after publication of the required notice, any member of the proposed class may apply to the Court to be appointed as lead plaintiff, whether or not they have previously filed a complaint in the underlying action. Consequently, counsel for Bua have no way of knowing with certainty who, if any, the competing lead plaintiff candidates will be at this time. As a result, counsel for Bua have been unable to conference with opposing counsel as prescribed by Local Rule 7.1, and respectfully request that the conference requirement of Local Rule 7.1 be waived for this motion. Pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II) of the Exchange Act, Defendants do not have standing to oppose the appointment of Bua as lead plaintiff.

Dated: May 16, 2022

Respectfully submitted,

/s/ Leo W. Desmond

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Additional Counsel

CERTIFICATE OF SERVICE

I, Leo W. Desmond, hereby certify that on May 16, 2022, a true and accurate copy of the above document was electronically filed with the Clerk of the Court by using the CM/ECF system which will send Notice of Electronic Filing (NEF) to all counsel of record.

s/ Leo W. Desmond
Leo W. Desmond